



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]

DECISION

BCS/146273

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**PRELIMINARY RECITALS**

Pursuant to a petition filed January 02, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on February 19, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner's BadgerCare+ was correctly switched to the Benchmark Plan from the Standard Plan because of income.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street  
Madison, Wisconsin 53703

By: Sharon Thacker  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner was notified that the BadgerCare+ Benefits for her family were changed effective January 1, 2013. The changes were the discontinuance of the BadgerCare+ for Petitioner and

spouse and the conversion of the BadgerCare+ of their children from the Standard Plan to the Benchmark Plan with a \$30 monthly premium.

3. In 2012 Petitioner's household income of \$4444.00 was under 200% of the Federal Poverty Level and the family was BadgerCare+ eligible for Standard Plan benefits.
4. As of January 1, 2013 Petitioner's household income increased to \$4512.00 because of a cost-of-living increase in Social Security benefits.
5. Petitioner's household size is 5.
6. For the period from February 1, 2012 to January 31, 2013, 200% of the Federal Poverty Level for a group of five was \$4501.67 ( *see Ops Memo 12-05, effective 2/1/12 for BadgerCare+*  ).
7. As of February 1, 2013 200% of the Federal Poverty Level for five increased to \$4595 ( *see Ops Memo 13-02, effective 2/1/13 for BadgerCare+*  ).
8. Petitioner's benefits were continued pending this decision.

### **DISCUSSION**

BadgerCare Plus is an expansion of the Wisconsin Medical Assistance program meant to provide insurance for children under age 19 and their parents. *BadgerCare Plus Eligibility Handbook (BEH)* , 1.1. There are two major BCP benefit plans. To be financially eligible for the BCP Standard Plan (full MA benefits), a family cannot have income greater than 200% of the federal poverty line (FPL). Wis. Stats. §49.471(8). The BCP Benchmark Plan (limited services) is available to children in households with income above 200% of the poverty line, and to self-employed parents/caretakers.

Petitioner's household income did not exceed 200% FPL when 200% FPL was \$4501.67. Petitioner's household income did exceed that Federal Poverty Level in January 2013. As of February 1, 2013, however, the Federal Poverty Level increased, as noted above, to \$4595.00. Thus, as of February 1, 2013, Petitioner is again eligible for BC+ Standard Plan benefits.

The agency will have to take the steps necessary to return Petitioner's case to the BadgerCare+ Standard Plan.

### **CONCLUSIONS OF LAW**

1. That Petitioner's case was correctly switched to the BadgerCare+ Benchmark Plan for the month of January 2013 because of income in excess of program limits.
2. That as of February 1, 2013 Petitioner's household income is less than 200% of the Federal Poverty Level thus Petitioner's eligibility should be returned to the BadgerCare+ Standard Plan.

**THEREFORE, it is**

### **ORDERED**

That this case is remanded to the agency with instructions to take necessary to restore Petitioner's BC+ Standard Plan eligibility effective February 1, 2013. This must be done within 10 days of the date of this Decision.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative

Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

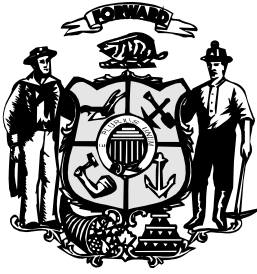
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 20th day of March, 2013

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\sDavid D. Fleming  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on March 20, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability